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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,746	09/22/2003	Michael J. Stevenson	STEV-110C	1895
37317	7590	02/20/2007	EXAMINER	
ROBERT E. STRAUSS 410 HIGH CHAPARRAL LOOP PRESCOTT, AZ 86303			PARKER, FREDERICK JOHN	
			ART UNIT	PAPER NUMBER
			1762	
			MAIL DATE	DELIVERY MODE
			02/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/667,746	Applicant(s) STEVENSON ET AL.	
	Examiner Frederick J. Parker	Art Unit 1762	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


 Frederick J. Parker
 Primary Examiner
 Art Unit: 1762

Continuation of 11. does NOT place the application in condition for allowance because: while the Examiner has fully considered and appreciates Applicants attention to detail in rebutting his positions, the arguments presented are not entirely convincing nor clear. Most importantly, the Examiner points out the DTA curve on page 3 of Remarks has no scale on the x-axis so it is impossible for him to ascertain if the melting point occurs in an interval of 2 degrees or 25 degrees. Further, it is unclear what PE is being shown: HDPE or LDPE. It is also not convincing that Jenett wants to prohibit melting (p.3, para. 2) but rather simply does not recognize or mention that it is occurring to cause fusion of the deposited PE material to the substrate in the permanent and inseparable manner cited in the patent (col. 5, 50-55). On page 5 of Remarks, Applicants appear to acknowledge that some melting occurs below a printed or conventionally accepted melting point (MP) value but notes Jenett does not refer to the melting point of the base. Nonetheless if the temperature suitably causes melting, it become irrelevant what it is called if the outcome or effect is the same, which appears to be the case in both the Jenett reference and Applicants' claims. Jenett expressly states there is fusion and fusion entails liquifying/ melting. See Attachments 1 & 2.

As to the argument mid-page 6 that the rejection should be one of anticipation 35 USC 102 rather than 35 USC 103, this argument is entirely without basis because the 35 USC 103 is necessitated by step (b) of independent claims which is the reason for introducing Hoopman and hence the reason for the obviousness rejection! The reason for the additional secondary references are spelled out in the rejections and have nothing to do with the melt temperature issue, as was never the Examiner's intention.

To Applicants' credit, they have shown that crystalline polymers such as PE have melt ranges which "are usually narrow", whatever "narrow" means. However, the attached references also note that materials are a mixture of crystalline and amorphous domains which will effect DTA curves. A review of claim 1 by the reader notes the claim merely requires polyethylene without further description such that it is unclear what is actually meant relative to arguments. According to the supplied Osborn reference, this may result in great variations in material/ melting behavior and DTA curves; see pages 14-15. Thus Applicants detailed and well-written arguments provide further food for thought, but they still do not convince this Examiner that Applicants claims provide a clear line of demarcation to establish patentability.